

2004 Supplement

to the

Kansas

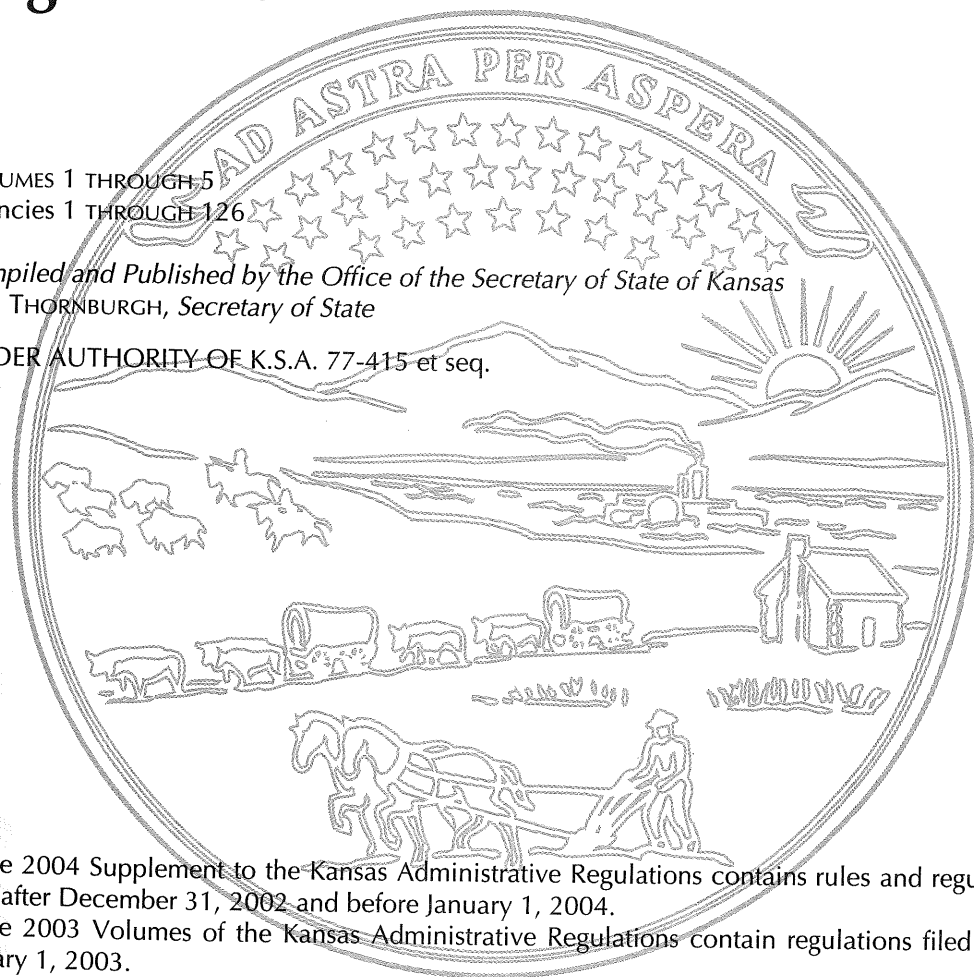
Administrative

Regulations

VOLUMES 1 THROUGH 5
Agencies 1 THROUGH 126

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(1) The completed renewal form provided by the board;

(2) the renewal fee required by K.S.A. 74-5319 and amendments thereto, as set forth in K.A.R. 102-1-13(a)(3); and

(3) evidence satisfactory to the board that the psychologist has completed the required number of continuing education hours as specified in K.A.R. 102-1-15.

(b) To be considered for reinstatement of a revoked psychology license for reasons other than incapacity of the psychologist, the applicant shall submit the following items to the board:

(1) The completed reinstatement form provided by the board;

(2) the reinstatement fee equal to the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(3) if the applicant is required to take an examination, the examination fee as set forth in K.A.R. 102-1-13(a)(4);

(4) proof satisfactory to the board of compliance with any term specified by an order of the board as a condition of reinstatement of the license;

(5) any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable it to satisfactorily evaluate and determine whether or not the license should be reinstated. In determining whether or not the license should be reinstated, factors including the following shall be considered by the board:

(A) The extent to which the individual presently merits the public trust;

(B) the individual's demonstrated understanding of the wrongful conduct that resulted in the license revocation. This understanding may be demonstrated either by successfully completing an oral interview with the board or by preparing a professional paper that is reviewed and approved by the board or the board's designee;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license revocation;

(D) the nature and seriousness of the original misconduct;

(E) the individual's conduct after the license revocation;

(F) the time elapsed since the license revocation; and

(G) the individual's present competence in psychological knowledge and skills;

(6) verification acceptable to the board that the

applicant has completed, during the immediate 24-month period, the required number of continuing education hours as specified in K.A.R. 102-1-15; and

(7) evidence satisfactory to the board that the applicant has not practiced independently as or held that individual out to the public as being a psychologist.

(c) To be considered for renewal of an expired psychology license, the applicant shall submit the following items to the board:

(1) The completed renewal form provided by the board;

(2) the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(3) the late renewal fee equal to the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(4) if the applicant has been credentialed in a state other than Kansas, verification of the status of the applicant's credential in that state;

(5) verification acceptable to the board that the applicant has completed, during the immediate 24-month period, the required number of continuing education hours as specified in K.A.R. 102-1-15; and

(6) evidence satisfactory to the board that, after November 1 following the expiration of the license, the applicant has not practiced independently as or held out that individual as a psychologist. (Authorized by K.S.A. 74-7507; implementing K.S.A. 74-5318, K.S.A. 74-5319, K.S.A. 74-5339, K.S.A. 74-7507, K.S.A. 74-5320, and K.S.A. 74-5321; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Dec. 18, 1998; amended July 11, 2003.)

102-1-10a. Unprofessional conduct.

Each of the following shall be considered unprofessional conduct:

(a) Practicing psychology in an incompetent manner, which shall include the following acts:

(1) Misrepresenting professional competency by offering to perform services that are inconsistent with the licensee's education, training, or experience;

(2) performing professional services that are inconsistent with the licensee's education, training, or experience; and

(3) without just cause, failing to provide psychological services that the licensee is required to provide under the terms of a contract;

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(b) practicing with impaired judgment or ob-
jectivity, which shall include the following acts:

(1) Using alcohol or other substances to the ex-
tent that it impairs the psychologist's ability to
competently engage in the practice of psychology;
and

(2) failing to recognize, seek intervention, and
make arrangements for the care of clients if one's
own personal problems, emotional distress, or
mental health difficulties interfere with or nega-
tively impact professional judgment, professional
performance and functioning, or the ability to act
in the client's best interests;

(c) engaging in harmful dual relationships,
which shall include the following acts:

(1) Making sexual advances toward or engaging
in physical intimacies or sexual activities with ei-
ther of the following:

(A) Any person who is a client; or

(B) any person that the licensee knows who has
a significant relationship with the client, supervi-
see, or student;

(2) failing to inform the client or patient of any
financial interests that might accrue to the li-
censed psychologist for referral to any other serv-
ice or for the sale, promotion, or use of any tests,
books, electronic media, or apparatus; and

(3) exercising undue influence over any client;

(d) making sexual advances toward or engaging
in physical intimacies or sexual activities with, or
exercising undue influence over any person who,
within the past 24 months, has been a client;

(e) failing to obtain informed consent, which
shall include the following acts:

(1) Failing to obtain and document, in a timely
manner, informed consent from the client or le-
gally authorized representative for clinical psycho-
logical services before the provision of any of
these services except in an emergency situation.
This informed consent shall include a description
of the possible effects of treatment or procedures
when there are known risks to the client or pa-
tient;

(2) failing to provide clients or patients with a
description of what the client or patient may ex-
pect in the way of tests, consultation, reports, fees,
billing, and collection; and

(3) failing to inform clients or patients when a
proposed treatment or procedure is experimental;
(f) ignoring client welfare, which shall include
the following acts:

(1) Failing to provide copies of reports or rec-
ords to a licensed healthcare provider authorized

by the client following the licensee's receipt of a
formal written request, unless the release of that
information is restricted or exempted by law or by
these regulations, or the disclosure of the infor-
mation would be injurious to the welfare of the
client;

(2) failing to inform the client or patient that
the client or patient is entitled to the same serv-
ices from a public agency if the licensed psychol-
ogist is employed by that public agency and also
offers services privately;

(3) engaging in behavior that is abusive or de-
meaning to a client, student, or supervisee;

(4) soliciting or agreeing to provide services to
prospective clients or patients who are already re-
ceiving mental health services elsewhere without
openly discussing issues of disruption of continu-
ity of care with the prospective client or patient,
or with other legally authorized persons who rep-
resent the client or patient, and when appropriate,
consulting with the other service provider about
the likely effect of a change of providers on the
client's general welfare;

(5) failing to take each of the following steps
before termination for whatever reason, unless
precluded by the patient's or client's relocation or
noncompliance with the treatment regimen:

(A) Discuss the patient's or client's views and
needs;

(B) provide appropriate pretermination coun-
seling;

(C) suggest alternative service providers, as ap-
propriate; and

(D) take other reasonable steps to facilitate the
transfer of responsibility to another provider if the
patient or client needs one immediately;

(6) failing to arrange for another psychologist or
other appropriately trained mental health profes-
sional to be available to handle clinical emergen-
cies if the psychologist anticipates being unavail-
able for a significant amount of time;

(7) failing to be available for the timely handling
of clinical emergencies after having agreed to pro-
vide coverage for another psychologist;

(8) failing to terminate a professional relation-
ship if it becomes reasonably clear that the patient
or client no longer needs the service, is not ben-
efiting from continued service, or is being harmed
by continued service;

(9) failing to delegate to employees, supervi-
sees, and research assistants only those responsi-
bilities that these persons can reasonably be ex-
pected to perform competently on the basis of

their education, training, or experience, either independently or with the level of supervision being provided;

(10) failing to provide training and supervision to employees or supervisees and to take reasonable steps to see that these persons perform services responsibly, competently, and ethically; and

(11) continuing to use or order tests, procedures, or treatment, or to use treatment facilities or services not warranted by the client's or patient's condition;

(g) failing to protect confidentiality, which shall include the following acts:

(1) Failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information may be obtained, and the manner in which it may be used;

(2) revealing any information regarding a client or failing to protect information contained in a client's records, unless at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health and safety of an individual or the public;

(C) the psychologist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure shall be limited to that action; or

(D) the patient has signed a written release that authorizes the psychologist to release information to a specific person or persons identified in the release; and

(3) failing to obtain written, informed consent from each client or the client's legal representative or representatives or from any other participant before performing either of the following actions:

(A) Electronically recording sessions with the client, or other participants, including audio and video recordings; or

(B) permitting third-party observation of the activities of the client or participant;

(h) misrepresenting the services offered or provided, which shall include the following acts:

(1) Failing to inform a client if services are provided or delivered under supervision;

(2) making claims of professional superiority that cannot be substantiated;

(3) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(4) knowingly engaging in fraudulent or misleading advertising; and

(5) taking credit for work not personally performed;

(i) engaging in improprieties with respect to fees and billing statements, which shall include the following acts:

(1) Exploiting clients or payers with respect to fees;

(2) misrepresenting one's fees;

(3) failing to inform a patient or client who fails to pay for services as agreed that collection procedures may be implemented, including the possibility that a collection agency may be used or legal measures may be taken; and

(4) filing claims for services that were not rendered;

(j) improperly using assessment procedures, which shall include the following acts:

(1) Basing assessment, intervention, or recommendations on test results and instruments that are inappropriate to the current purpose or to the patient characteristics;

(2) failing to identify situations in which particular assessment techniques or norms may not be applicable or failing to make adjustments in administration or interpretation because of relevant factors, including gender, age, race, and other pertinent factors;

(3) failing to indicate significant limitations to the accuracy of the assessment findings;

(4) failing to inform individuals or groups at the outset of an assessment that the psychologist is precluded by law or by organizational role from providing information about results and conclusions of the assessment;

(5) endorsing, filing, or submitting psychological assessments, recommendations, reports, or diagnostic statements on the basis of information and techniques that are insufficient to substantiate those findings;

(6) releasing raw test results or raw data either to persons who are not qualified by virtue of education, training, or supervision to use that information or in a manner that is inappropriate to the needs of the patient or client; and

(7) allowing, endorsing, or supporting persons who are not qualified by virtue of education, training, or supervision to administer or interpret psychological assessment techniques;

(k) violating applicable law, which shall include the following acts:

(1) Impersonating another person holding a license issued by this or any other board;

(2) claiming or using any method of treatment or diagnostic technique that the licensed psychologist refuses to divulge to the board;

(3) refusing to cooperate in a timely manner with the board's investigation of complaints lodged against an applicant or a psychologist licensed by the board. Any psychologist taking longer than 30 days to provide requested information shall have the burden of demonstrating that the psychologist has acted in a timely manner; and

(4) being convicted of a crime resulting from or relating to the licensee's professional practice of psychology;

(1) aiding an illegal practice, which shall include the following acts:

(1) Knowingly allowing another person to use one's license;

(2) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person credentialed by the board;

(3) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified in respect to character, education, or other relevant eligibility requirements;

(4) making a materially false statement or failing to disclose a material fact in an application for licensure or renewal of licensure; and

(5) failing to notify the board, within a reasonable period of time, that any of the following conditions apply to the psychologist or that the psychologist has knowledge, not obtained in the context of confidentiality, that any of the following conditions apply to another professional regulated by the board:

(A) A licensee has had a license, certificate, permit, registration, or other certificate, registration, or license in psychology or in the field of behavioral sciences, granted by any state or jurisdiction, that has been limited, restricted, suspended, or revoked;

(B) a licensee has been subject to disciplinary action by a licensing or certifying authority or professional association;

(C) a licensee has been terminated or suspended from employment for some form of misfeasance, malfeasance, or nonfeasance;

(D) a licensee has been convicted of a felony;

(E) a licensee has practiced in violation of the laws or regulations regulating the profession;

A psychologist taking longer than 30 days to notify the board shall have the burden of demonstrating that the psychologist acted within a reasonable period of time;

(m) failing to maintain and retain records as outlined in K.A.R. 102-1-20;

(n) improperly engaging in research with human subjects, which shall include the following acts:

(1) Failing to consider carefully the possible consequences for human beings participating in the research;

(2) failing to protect each participant from unwarranted physical and mental harm;

(3) failing to ascertain that the consent of the participant is voluntary and informed; and

(4) failing to preserve the privacy and protect the anonymity of the subjects within the terms of informed consent;

(o) engaging in improprieties with respect to forensic practice, which shall include the following acts:

(1) When conducting a forensic examination, failing to inform the examinee of the purpose of the examination and the difference between a forensic examination and a therapeutic relationship;

(2) in the course of giving expert testimony in a legal proceeding, performing a psychological assessment in a biased, nonobjective, or unfair manner or without adequate substantiation of the findings;

(3) failing to conduct forensic examinations in conformance with established scientific and professional standards; and

(4) if a prior professional relationship with a party to legal proceeding precludes objectivity, failing to report this prior relationship and to clarify in both written report and actual testimony the possible impact of this prior relationship on the resulting conclusions and recommendations; and

(p) engaging in improprieties with respect to supervision, which shall include the following acts:

(1) Failing to provide supervision in compliance with subsection (d) of K.A.R. 102-1-5a;

(2) failing to provide supervision to a person working towards licensure as a clinical psychologist in compliance with KAR 102-4-7a; and

(3) failing to provide regular, periodic, written supervisory feedback to the supervisee. (Authorized by and implementing K.S.A. 2000 74-7507

and K.S.A. 74-5324; effective Jan. 4, 2002; amended Jan. 9, 2004.)

102-1-15. Continuing education. (a)

Each applicant for renewal of licensure shall have earned 50 continuing education hours in the two years preceding an application for renewal. The required number of continuing education hours shall be prorated for periods of renewal that are less than the full two years, using the ratio of one-third of the continuing education hours for each six months since the date of licensure or most recent renewal. Continuing education hours for each type of continuing education activity as specified below in subsection (d) shall be prorated accordingly for those persons whose periods of renewal are less than the full two years. Each person who is licensed within six months of the current expiration period shall be exempt from the continuing education requirement for that person's first renewal period.

(b) The content of each continuing education activity shall be clearly related to the enhancement of psychology practice, values, skills, or knowledge.

(c) During each two-year renewal cycle and as part of the required continuing education hours, each licensed psychologist shall complete at least three continuing education hours of training on professional ethics and at least six continuing education hours related to diagnosis and treatment of mental disorders. These hours shall be obtained from any of the activities specified in paragraphs (d)(1), (d)(2), (d)(4), and (d)(6) of this regulation.

(d) Acceptable continuing education activities, whether taken within the state or outside the state, shall include the following:

(1) Attendance at workshops, seminars, and presentations that are sponsored, accredited, or conducted by educational institutions, professional associations, or private institutions. These activities shall be sponsored, accredited, or conducted by educational institutions, professional associations, or private institutions that are nationally or regionally accredited for training. Activities conducted by agencies, groups, or individuals that do not meet the requirements of national or regional accreditation shall be acceptable, if the content is clearly related to the enhancement of psychology skills, values, and knowledge. Actual contact hours, excluding breaks and lunch, shall be credited. A maximum of 50 continuing education hours shall be allowed;

(2) the first-time preparation and initial presentation of courses, workshops, or other formal training activities, for which a maximum of 15 continuing education hours shall be allowed;

(3) documented completion of a self-study program. A maximum of 12 continuing education hours shall be allowed;

(4) documented completion of a self-study program with a posttest that is conducted by a continuing education provider as described in paragraph (d)(1). A maximum of 40 continuing education hours shall be allowed;

(5) publication and professional presentation. Fifteen continuing education hours may be claimed for the publication or professional presentation of each scientific or professional paper or book chapter authored by the applicant. A maximum of 45 continuing education hours shall be allowed;

(6) completion of an academic course, for which a maximum of 15 continuing education hours shall be allowed for each academic semester credit hour;

(7) providing supervision as defined in K.A.R. 102-1-1, for which a maximum of 15 continuing education hours shall be allowed;

(8) receiving supervision as defined in K.A.R. 102-1-1, except in connection with any disciplinary action, for which a maximum of 15 continuing education hours shall be allowed;

(9) initial preparation for a specialty board examination, for which a maximum of 25 continuing education hours shall be allowed;

(10) participation in quality care, client or patient diagnosis review conferences, treatment utilization reviews, peer review, case consultation with another licensed psychologist, or other quality assurance committees or activities, for which a maximum of 15 continuing education hours shall be allowed;

(11) participation, including holding office, in any professional organization related to the applicant's professional activities, if the organization's activities are clearly related to the enhancement of psychology or mental health practice, values, skills, or knowledge. A maximum of 12 continuing education hours shall be allowed; and

(12) receiving personal psychotherapy that is provided by a licensed or certified mental health provider and is a part of a designated training program. A maximum of 20 continuing education hours shall be allowed.

(e) Each licensed psychologist shall be respon-